

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA **FILED**

2008 JAN -7 PM 2:12

UNITED STATES OF AMERICA

)
V.

)
Martin CUNNINGHAM; and

)
Omar JINESTA aka Ruben GONZALEZ

CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
KMH

Magistrate's Case No. 08 MJ 0047
BY DEPUTY

**AMMENDED COMPLAINT FOR
VIOLATION OF 18 USC, Section
922(g)(1) – felon in possession of
firearms**

The undersigned complainant being duly sworn states:

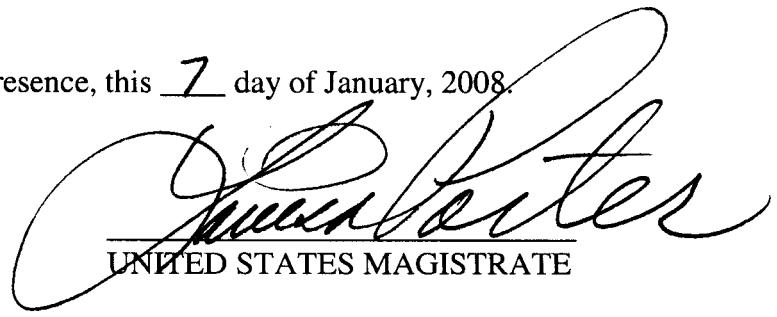
COUNT 1

On January 5, 2008, within the Southern District of California, defendants Martin CUNNINGHAM and Omar JINESTA, aka Ruben GONZALEZ, both of whom are convicted felons, did possess five firearms that traveled in and affected interstate commerce; in violation of 18 United States Code, Section 922(g)(1).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


Special Agent Matthew Beals
Bureau of Alcohol, Tobacco
Firearms and Explosives

Sworn to before me and subscribed in my presence, this 7 day of January, 2008.


UNITED STATES MAGISTRATE

United States

v.

Martin CUNNINGHAM; and
Omar JINESTA aka Ruben GONZALEZ

Probable Cause Statement

OVERT ACTS

In violation of the aforementioned statutes the following acts were committed in the District of Arizona and the Southern District of California:

On January 5, 2008, Special Agent (SA) Matt Beals observed Martin CUNNINGHAM and Omar JINESTA, aka Ruben GONZALEZ, shopping for firearms at a gun show in Yuma, Arizona. SA Beals observed JINESTA purchase multiple handguns from one Federal Firearm Licensee (FFL). JINESTA gave CUNNINGHAM the firearms immediately after purchasing them. SA Beals observed CUNNINGHAM and JINESTA continue to shop while CUNNINGMAN possessed the firearms. CUNNINGHAM and JINESTA eventually departed the gun show, while CUNNINGHAM was still carrying the firearms JINESTA provided him with. CUNNINGHAM and JINESTA proceeded to the parking lot where they entered a Honda Civic bearing California license plate 6AVF896. CUNNINGHAM and JINESTA were eventually observed leaving Yuma, Arizona, heading west on Interstate 8 toward San Diego, California.

At a California Department of Agriculture checkpoint located in Winterhaven, California, SA Beals contacted CUNNINGHAM and JINESTA. JINESTA identified himself as Ruben GONZALEZ. JINESTA told SA Beals that he purchased five firearms at the gun show in Yuma, Arizona. SA Beals conducted a consent search of the aforementioned vehicle that revealed five firearms, to wit: three Walther, model P22, .22 caliber, pistols, serial numbers L195555, L195717 and L198028, one Glock, model 17, 9mm pistol, serial number ZR605US and one AMT, model Backup, .380 caliber, pistol, serial number DA5787.

On the same date as above, SA Beals reviewed the aforementioned firearms and determined that the Glock and Walther firearms were not manufactured in California. Therefore, the firearms traveled in and affected interstate commerce by their presence in the State of California. SA Beals also determined that the AMT firearm was manufactured in California. However, because CUNNINGHAM and JINESTA

purchased the firearm in Arizona and transported it to California, it too traveled in and affected interstate commerce.

On the same date as above, a query of the National Crime Information Center (NCIC) revealed that on May 27, 2003, CUNNINGHAM received a felony conviction for violating California Health and Safety Code 11359 – possession of marijuana for sale. CUNNINGHAM also confessed that he plead guilty and was sentenced in State court for the aforementioned offense.

On January 7, 2008, a query of NCIC revealed that on August 4, 2003, JINESTA received a felony conviction for violating Section 952 of Title 21 of the United States Code – Importation of a controlled substance.